

NOT INCLUDED IN
BOUND VOLUMES

PBH
Upper Marlboro, MD

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

DAYCON PRODUCTS COMPANY, INC.

and

Case 05-CA-035043

DRIVERS, CHAUFFEURS AND HELPERS
LOCAL UNION NO. 639 A/W INTERNATIONAL
BROTHERHOOD OF TEAMSTERS

ORDER DENYING MOTION FOR RECONSIDERATION
AND/OR MOTION FOR CLARIFICATION

On August 12, 2011, the National Labor Relations Board issued a Decision and Order¹ in this proceeding, finding that the Respondent violated Section 8(a)(5) and (1) and Section 8(d) of the Act by unilaterally reducing the contractual wage rate of eight bargaining unit employees. To remedy the unfair labor practice, the Board ordered the Respondent to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act. Specifically, the Board ordered the Respondent to restore the wages of the eight affected employees to the levels required by the parties' 2007-2010 collective-bargaining agreement and to make employees whole for any loss of

earnings and other benefits suffered as a result of its unlawful wage reduction. On September 9, 2011, the Respondent filed a motion for reconsideration and/or motion for clarification. On September 16, 2011 and September 19, 2011, respectively, the Acting General Counsel and the Charging Party Union each filed an opposition to the Respondent's motion.

In its motion, the Respondent contends that: (1) the Board's holdings in its decision rested on issues that were not fully and fairly litigated; (2) the decision's factual background contained material errors which, if corrected, would nullify the foundation of the decision; and (3) the decision is incompatible with controlling precedent.

Having duly considered the matter, we find that the Respondent's motion fails to present "extraordinary circumstances" warranting reconsideration under Section 102.48(d) (1) of the Board's Rules and Regulations.²

IT IS ORDERED, therefore, that the Respondent's motion for reconsideration and/or clarification is denied.³

¹ 357 NLRB No. 52.

² Member Becker did not participate in the Board's Decision and Order.

³ The Respondent submits that if the Board denies its motion for reconsideration, the Board should clarify the scope of its decision to specify that the Respondent was privileged to unilaterally reduce the wage rates of the eight affected employees after the 2007-2010 agreement expired, with no subsequent backpay obligation. We decline to do so. The Respondent may raise its arguments regarding the scope of the

Dated, Washington, D.C., December 12, 2011.

Mark Gaston Pearce, Chairman

Craig Becker, Member

Brian E. Hayes, Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD

Board's holding in these respects at the compliance stage of this proceeding.